



Legislative Bulletin.....November 19, 2004

Contents:

- H.R. 5360**—American History and Civics Education Act of 2004
- H.R. 4324**—To amend title 5, United States Code, to eliminate the provisions limiting certain election opportunities available to individuals participating in the Thrift Savings Plan
- S. 2618**—To amend title XIX of the Social Security Act to extend Medicare cost-sharing for the Medicare part B premium for qualifying individuals through September 2005
- H.R. 5382**—To promote the development of the emerging commercial human space flight industry
- S. 2781**—Comprehensive Peace in Sudan Act
- S. 150**—Internet Tax Nondiscrimination Act
- S.Con.Res. 146**—A concurrent resolution to direct the Secretary of the Senate to make corrections in the enrollment of the bill S. 150
- H.Res. 853** — Recognizing the Boy Scouts of America for the public service the organization performs for neighborhoods and communities across the United States
- H.R. 5365** — To treat certain arrangements maintained by the YMCA Retirement Fund as church plans for the purposes of certain provisions of the Internal Revenue Code of 1986

Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: 0

Total Cost of Discretionary Authorizations: \$369 million in 2005 and \$988 million over fiscal years 2005-2009

Effect on Revenue: Negligible.

Total Change in Mandatory Spending: \$400 million for fiscal year 2005.

Total New State & Local Government Mandates: 0

Total New Private Sector Mandates: 1

Number of Bills Without Committee Reports: 5

Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority: 3

H.R. 5360—American History and Civics Education Act of 2004 (Wicker)

Order of Business: The bill is scheduled for consideration on Friday, November 19th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 5360 would authorize the Secretary of Education to award up to 12 grants to entities to establish Presidential Academies for Teaching of American History and Civics and Congressional Academies for Students of American History and Civics. Entities receiving funds would have to have “demonstrated expertise” in historical methodology or the teaching of history. The Secretary could use funds from the Fund for the Improvement of Education.

The Secretary is also authorized to award grants in support of National History Day.

Additional Background: In the past, RSC Members raised concerns with the introduced version of H.R. 1078. To view a summary of these concerns, click here - <http://johnshadegg.house.gov/rsc/CivicsEducationSummary.pdf>

The National History Day program is a nonprofit organization that supports history education activities in schools and an annual history contest. According to Guidestar, in fiscal year 2003, the National History Day program did not receive any government grants and its revenues exceeded expenditures by more than \$188,000. For more information about National History Day, click here - <http://www.nationalhistoryday.com>

Outside Organizations: The RSC is aware of five conservative organizations that are opposed to H.R. 5360: Eagle Forum, Concerned Women for America, Gun Owners of America, the American Policy Center, and Family Research Council. According to the sponsor’s office, they have statements/letters of support from the NRA, the Free Congress Foundation, Empower America, and the American Conservative Union.

Committee Action: H.R. 5360 was introduced on November 16, 2004, and referred to the Committee on Education and the Workforce. The committee did not consider the bill.

Cost to Taxpayers: A cost estimate is not available.

Does the Bill Expand the Size and Scope of the Federal Government?: The bill allows the Secretary of Education to establish three new grants.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: A committee report citing constitutional authority is not available.

Staff Contact: Lisa Bos, lisa.bos@mail.house.gov, (202) 226-1630

H.R. 4324—To amend title 5, United States Code, to eliminate the provisions limiting certain election opportunities available to individuals participating in the Thrift Savings Plan (Tom Davis)

Order of Business: The bill is scheduled for consideration on Friday, November 19th, under a motion to suspend the rules and pass the bill.

Summary: H.R. 4324 would make changes to the rules that govern participation in the federal employees' Thrift Savings Plan (TSP). H.R. 4324 would eliminate the initial enrollment period for TSP and allow participants to change their contributions at any time. Once a participant elects to change his or her contribution amount, the change would take effect almost immediately. The bill places no limit on how many times participants may change contributions, or how large such changes can be, as long as they remain within the overall contribution limits. Changes to agency contributions that would be initiated by changes to participant contributions would take effect immediately.

The bill also would change when agency contributions first begin. H.R. 4324 would eliminate the requirement that agency contributions begin after the second open season after which an employee is first eligible to participate in the TSP. Instead, agency contributions would begin as soon as a FERS employee is eligible to participate in the TSP. This change would apply to both the automatic one percent agency contribution, as well as agency matching contributions.

Specifically, it would allow federal employees and members of the uniformed services to begin or alter their TSP contributions at any time instead of limiting such changes to biannual open-season periods. It also would allow agency contributions to begin as soon as an employee is eligible to participate in the TSP, rather than delaying the start of agency contributions by between 6 and 12 months.

Committee Action: H.R. 4324 was introduced on May 11, 2004, and referred to the Committee on Government Reform. The committee approved the bill by voice vote on July 21.

Cost to Taxpayers: The Congressional Budget Office estimates that H.R. 4324 could cost \$69 million in 2005 and \$488 million over fiscal years 2005-2009, subject to appropriation.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: A committee report citing constitutional authority is not available.

Staff Contact: Lisa Bos, lisa.bos@mail.house.gov, (202) 226-1630

S. 2618— To amend title XIX of the Social Security Act to extend Medicare cost-sharing for the Medicare part B premium for qualifying individuals through September 2005 (Grassley)

Order of Business: The bill is scheduled for consideration on Friday, November 19th, under a motion to suspend the rules and pass the bill.

S. 2618 passed the Senate by unanimous consent on November 16, 2004.

Summary: S. 2618 would extend cost-sharing for the Medicare part B premium (for low-income individuals) through September 2005. Current authorization expires in 2004. The bill allocates \$100 million for October 1, 2004, through December 31, 2004 and \$300 million for January 1, 2005, through September 30, 2005.

Committee Action: The bill was not considered by a House committee.

Cost to Taxpayers: While an official cost estimate is not available, the bill allocates \$400 million for fiscal year 2005.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: A committee report citing constitutional authority is not available.

Staff Contact: Lisa Bos, lisa.bos@mail.house.gov, (202) 226-1630

H.R. 5382—To promote the development of the emerging commercial human space flight industry (Rohrabacher)

Order of Business: The bill is scheduled to be considered on Friday, November 19th, under a motion to suspend the rules and pass the bill. Consideration is subject to the passage of H.Res. 859, allowing for suspensions on a Friday. The House already passed a bill to promote commercial human space flight, H.R. 3752, on March 4, 2004, by a vote of 402-1. The Senate never took floor actions on a commercial human space flight bill, though the Senate Commerce, Science, and Transportation Committee did report a similar bill, S. 1260, to the full Senate on July 24, 2003. H.R. 5382 is a compromise bill worked out between the relevant House and Senate committees.

Summary: **NOTE:** The major differences in H.R. 5382 compared to the House-passed H.R. 3752 are indicated in **red-bold**.

H.R. 5382 would amend the Commercial Space Launch Act (CSLA) (49 U.S.C. 701) to incorporate commercial **human** spaceflight into the commercial spaceflight regulatory regime (see “Background” section below). More specifically, the bill would:

- place all commercial space flight authority, including authority to regulate commercial human spaceflight, with the Federal Aviation Administration’s (FAA) Office of the Associate Administrator for Commercial Space Transportation (AST);
- allow AST to issue experimental permits that can be granted more quickly and with fewer requirements than licenses to facilitate the unlimited testing of new types of reusable suborbital rockets;
- **mandate that only one license or permit be required from the federal government to conduct commercial human space flight activities for which a license or permit is required and that the permit/license requirement be unwaivable;**
- **provide additional conditions for suspensions of licenses;**
- require AST to issue regulations for crews relating to training and medical condition;
- direct that spaceflight participants be informed of the risks of their participation and sign written statements of informed consent;
- **authorize the Secretary of Transportation to issue regulations (subject to certain qualifications) governing the design or operation of a launch vehicle to “protect the health and safety of crew and space flight participants;”**
- require that both crew and spaceflight participants execute mutual waivers of liability with licensees (or experimental permit holders) and the federal government (requirement terminated three years after the first licensed launch of a launch vehicle carrying a spaceflight participant);
- extend the existing liability indemnification for the entire commercial space transportation industry (which would be expanded to include licensed, non-experimental commercial human space launches) for three years;
- exclude experimental launches and spaceflight *participants* from federal indemnification; and
- initiate a study (**in coordination with a nonprofit entity**) on how best to gradually eliminate the liability indemnification regime for the commercial space transportation industry ~~by 2008 or as soon as possible thereafter.~~
- **initiate a study (in coordination with a nonprofit entity) analyzing the safety issues related to launching human beings in to space (report to Congress due in four years)**

~~H.R. 5382 would authorize \$11,776,000 (level funding) for each of fiscal years 2005–2007 for AST. (The authorizations have already been signed into law as part of H.R. 2608 [Public Law 108-360], the National Windstorm Impact Reduction Act, as follows:~~

- ❑ ~~\$11,941,000 for fiscal year 2005;~~
- ❑ ~~\$12,299,000 for fiscal year 2006;~~
- ❑ ~~\$12,668,000 for fiscal year 2007;~~
- ❑ ~~\$13,048,000 for fiscal year 2008; and~~
- ❑ ~~\$13,440,000 for fiscal year 2009~~

Background: Currently, any individual or private entity wishing to conduct a commercial space launch or reentry in the United States or operate a launch or reentry site in the United

States must obtain a license from the FAA to do so. Plus, American citizens must obtain authorization from the FAA to conduct commercial space launches or reentries or to operate launch or reentry sites anywhere in the world.

The Science Committee explains in House Report 108-429: “When the CSLA was enacted, only expendable launch vehicles (ELVs) and certain types of ballistic missiles were available for private sector use. These vehicles typically are used to lift satellites and other types of cargo into space. Since enactment of the CSLA, commercial enterprises have pursued the development of reusable launch vehicles (RLVs). A reusable launch vehicle is one that is designed to return to Earth from space substantially intact. Congress amended the CSLA in 1998 to add licensing authority for reentry vehicles, including RLVs. However, there currently is no express jurisdiction granted under the law for the regulation of commercial human spaceflight. Moreover, the existing licensing process does not distinguish between experimental and operational RLVs.”

On December 31, 2004, the federal indemnification of the commercial space launch industry against successful claims by uninvolved third parties is set to expire. The United States currently agrees to pay third party claims in amounts up to roughly \$2.2 billion above the amount of insurance that a licensee carries. But current law is unclear as to whether such indemnification applies to commercial **human** space flight licensees, their crews, and paying passengers. To date, this indemnification has not been exercised.

A few entrepreneurial companies hope in the near future to regularly and safely provide round trips into space for paying customers. The launch vehicles that will be used to carry human passengers into space could also have other commercial applications, such as the transportation of cargo, commercial remote sensing, microgravity research, and atmospheric research.

Committee Action: The bill was referred to the Science Committee on November 18, 2004, but no official action was taken on it.

Cost to Taxpayers: Although no cost estimate is available for H.R. 5382, because this bill does not contain any authorizations of appropriations (they have already been signed into law, as detailed in the “Summary” section above), and based on a CBO estimate for H.R. 3752, RSC staff estimates that H.R. 5382 would have no significant impact on the federal budget. CBO estimated previously that extending and expanding the Department of Transportation’s indemnification authority through 2007 would have no significant budgetary impact over the next five years, largely because operators of commercial space vehicles must have significant private insurance coverage in order to be licensed. Further, CBO estimates that authorizing AST to issue experimental permits would have no significant budgetary impact because the activities covered by such permits would not be eligible for indemnification.

Does the Bill Expand the Size and Scope of the Federal Government?: The bill would extend the regulatory regime for commercial spaceflight to include commercial human spaceflight and would initiate two new studies. Further, the federal indemnification of the commercial spaceflight industry would be expanded.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:

The bill would impose private-sector mandates on the commercial space flight industry by imposing additional requirements on licensees and passengers that engage in manned space flights.

Constitutional Authority: Although a committee report citing constitutional authority for H.R. 5382 is unavailable, House Report 108-429 (for H.R. 3752) cited constitutional authority in Article I, Section 8 (but failed to cite a specific clause). House Rule XIII, Section d(1), requires that all committee reports contain “a statement citing the *specific* powers granted to Congress in the Constitution to enact the law proposed by the bill or joint resolution.”

[emphasis added]

RSC Staff Contact: Paul S. Teller, paul.teller@mail.house.gov, (202) 226-9718

S. 2781—Comprehensive Peace in Sudan Act (Senator Lugar)

Order of Business: The bill is scheduled to be considered on Friday, November 19th, under a motion to suspend the rules and pass the bill. Consideration is subject to the passage of H.Res. 859, allowing for suspensions on a Friday. The Senate passed S. 2781 on September 23, 2004, by unanimous consent. The House passed a similar bill, H.R. 5061, on October 7, 2004, by a vote of 412-3.

NOTE: the House will consider a new version of S. 2781 and send it back to the Senate. The summary below is of the new version—not of the version that the Senate passed on September 23, 2004.

Summary: **NOTE:** The major differences in S. 2781 compared to House-passed H.R. 5061 are indicated in **red-bold**.

S. 2781 would provide assistance for the Darfur region of the Sudan. The bill expresses the sense of Congress that “the Sudan Peace Act (50 U.S.C. 1701 note) remains relevant and should be extended to include the Darfur region of Sudan.” The bill also notes that the U.S. Government, in both the executive and legislative branches, has concluded that genocide has been committed and may still be occurring in the Darfur region and that the Government of Sudan and militias supported by the Government of Sudan, known as the Janjaweed, bear responsibility for the genocide.

The bill also expresses the sense of Congress in favor of targeted sanctions against Sudanese Government officials involved in the policy of genocide, humanitarian assistance, **and a new Special Presidential Envoy for Peace.**

Specifically, the bill would authorize assistance for Sudan to support the implementation of a comprehensive peace agreement for Sudan and to address the humanitarian and human rights

crisis in the Darfur region and eastern Chad. Assistance could only be provided if the President certifies that the Government of Sudan has taken steps to:

- “(A) ensure that the armed forces of Sudan and any associated militias are not committing atrocities or obstructing human rights monitors or the provision of humanitarian assistance;
- “(B) demobilize and disarm militias supported or created by the Government of Sudan;
- “(C) allow full and unfettered humanitarian assistance to all regions of Sudan, including **the Darfur region**;
- “(D) allow an international commission of inquiry to conduct **an** investigation of atrocities in the Darfur region, ~~and Khartoum, preserve evidence of atrocities and prosecute those responsible for war crimes, crimes against humanity, and genocide in a manner consistent with United Nations Security Council Resolution 1564 (September 18, 2004), to investigate reports of violations of international humanitarian law and human rights law in the Darfur region by all parties, to determine also whether or not acts of genocide have occurred and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable;~~
- “(E) cooperate fully with the African Union, **the United Nations**, and all other observer ~~and~~ monitoring, **and protection** missions mandated to operate in Sudan;
- “(F) ~~ensure~~ **permit** the safe **and voluntary** return of displaced persons and refugees to their homes and rebuild the communities destroyed in the violence;
- “(G) implement **the final agreement reached in the Naivasha peace process and install a new coalition government based on** the Nairobi Declaration on the Final Phase of Peace in the Sudan **signed on June 5, 2004**; and
- ~~“(H) install a new coalition government based on the agreements reached in the Nairobi Declaration on the Final Phase of Peace in the Sudan.”~~

The President would have to immediately suspend assistance (**except that for health care, education, and humanitarian assistance**) if the Government of Sudan stops taking any of the actions above.

The bill would authorize:

- \$100 million for ~~each of fiscal years 2005–2007~~ **FY2005 and such sums as may be necessary for FY2006 and FY2007** for assistance to implement a comprehensive peace agreement; and
- ~~\$150~~ **200** million for FY2005 for humanitarian assistance.

S. 2781 would also require the President (subject to a waiver in the U.S. national interest), ~~on~~ **beginning 30 days after** the date of enactment of this legislation, to implement measures authorized under the Sudan Peace Act. These are as follows:

“The President--

“(A) shall, through the Secretary of the Treasury, instruct the United States executive directors to each international financial institution to continue to vote

against and actively oppose any extension by the respective institution of any loan, credit, or guarantee to the Government of Sudan;

“(B) should consider downgrading or suspending diplomatic relations between the United States and the Government of Sudan;

“(C) shall take all necessary and appropriate steps, including through multilateral efforts, to deny the Government of Sudan access to oil revenues to ensure that the Government of Sudan neither directly nor indirectly utilizes any oil revenues to purchase or acquire military equipment or to finance any military activities; and

“(D) shall seek a United Nations Security Council Resolution to impose an arms embargo on the Government of Sudan.”

S. 2781 would also require the President (subject to a waiver in the U.S. national interest), beginning 30 days after the date of enactment of this legislation, to block the assets of appropriate senior officials of the Government of Sudan, in accordance with current U.S. law.

The President would be authorized to provide assistance, other than military assistance, to areas that were outside of the control of the Government of Sudan on April 8, 2004, including assistance for emergency relief, development and governance, or for programs in support of any viable peace agreement at the local, regional, or national level in Sudan.

The bill would also require the Secretary of ~~the Treasury State~~ to complete an annual report on commercial activities in Sudan and on how the ongoing conflict is affecting civilian populations and humanitarian relief efforts.

Additional Background: Click here to read the RSC Legislative Bulletin on the Sudan Peace Act: <http://johnshadegg.house.gov/rsc/Lb100702.pdf>

Committee Action: The Senate-passed bill was referred to the House International Relations Committee, which took no official action on it.

Cost to Taxpayers: S. 2781, as amended, would specifically authorize \$300 million for fiscal year 2005 and “such sums” for fiscal years 2006 and 2007.

Does the Bill Expand the Size and Scope of the Federal Government?: The bill authorizes new assistance to Sudan, contingent on certain actions by the Sudanese government.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: A committee report citing constitutional authority is not available.

RSC Staff Contact: Paul S. Teller, paul.teller@mail.house.gov, (202) 226-9718

S. 150—Internet Tax Nondiscrimination Act (Senator Allen)

Order of Business: The bill is scheduled to be considered on Friday, November 19th, under a motion to suspend the rules and pass the bill. Consideration is subject to the passage of H.Res. 859, allowing for suspensions on a Friday. The Senate passed the bill by a vote of 93-3 on April 29, 2004. The House passed related legislation, H.R. 49, by voice vote on September 17, 2003.

Summary: S. 150 would extend through November 1, 2007, the moratorium on state and local taxation of Internet **access** (not standard commercial transactions on the Internet) and **multiple and discriminatory** taxation of e-commerce. The original moratorium went into effect on October 1, 1998, and was extended through November 1, 2003 (by H.R. 1552 in the 107th Congress). This bill would make the continuation of the moratorium retroactive to November 1, 2003.

States that had been collecting a tax on Internet access prior to October 1, 1998 could continue doing so through November 1, 2007. States that had been collecting a tax on Internet access prior to November 1, 2003 could continue doing so through November 1, 2005.

Note: H.R. 49, as it passed the House, would have **permanently** extended the moratorium. Furthermore, H.R. 49 would have struck the grandfathering language described above and therefore would have banned Internet access taxes in all states.

S. 150 would also sharpen several of the definitions in law about the moratorium:

- “Tax on Internet access” would mean “a tax on Internet access, regardless of whether such tax is imposed on a provider of Internet access or a buyer of Internet access and regardless of the terminology used to describe the tax” and would **exclude** a tax “levied upon or measured by net income, capital stock, net worth, or property value.”
- “Internet access service” would **exclude** telecommunications services, except to the extent such services are purchased, used, or sold by a provider of Internet access to provide Internet access.

If charges for Internet access are aggregated with, and not separately stated from, charges for telecommunications services or other charges that are subject to taxation, then the charges for Internet access could be subject to taxation, unless the Internet access provider could reasonably identify the charges for Internet access from its books and records kept in the regular course of business.

S. 150 would clarify that this tax moratorium would not affect the imposition or collection of any fees or charges used to preserve and advance federal universal service (or similar state programs), 911 services, or E-911 services.

This bill would not affect the imposition of tax on a charge for voice or similar service utilizing Internet Protocol or any successor protocol.

S. 150 would direct the Comptroller General to report to Congress within one year on the state-by-state impact of the Internet tax moratorium (including its effects on the revenues of state and local governments and on the deployment and adoption of broadband technologies for Internet access throughout the United States) on the build-out of broadband technology resources in rural, underserved areas of the country.

Committee Action: S. 150 was not referred to any House committee. The House Judiciary Committee did consider H.R. 49 last year.

Administration Position: A Statement of Administrative Policy supported S. 150 when it contained a **permanent** extension of the moratorium:

<http://www.whitehouse.gov/omb/legislative/sap/108-1/s150sap-s.pdf>

Cost to Taxpayers: CBO estimated that implementing S. 150 (when it contained a permanent extension) would have no impact on the federal budget (since the bill only applies to state and local taxes). Presumably, the extension through November 1, 2007 would be scored the same way.

Does the Bill Expand the Size and Scope of the Federal Government?: No, it would extend a current-law moratorium.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: It would extend a current state-and-local mandate.

Constitutional Authority: Senate committee reports are not required to contain constitutional authority statements. For H.R. 49, the Judiciary Committee, in House Report 108-234, cites constitutional authority in Article I, Section 8, but does not cite a specific clause.

RSC Staff Contact: Paul S. Teller, paul.teller@mail.house.gov, (202) 226-9718

**S.Con.Res. 146—A concurrent resolution to direct the Secretary of the
Senate to make corrections in the enrollment of the bill S. 150
(Senator Allen)**

Order of Business: The resolution is scheduled to be considered on Friday, November 19th, under a motion to suspend the rules and pass the bill. Consideration is subject to the passage of H.Res. 859, allowing for suspensions on a Friday. The Senate passed the resolution on November 17, 2004 by unanimous consent.

Summary: S.Con.Res. 146 would make the following amendments to S. 150, the Internet Tax Nondiscrimination Act (see separate RSC Legislative Bulletin), after it is passed by the House and before it goes to the President for signature:

- Provides that the grandfathering clause for states already levying Internet access taxes before October 1998 would expire on November 1, 2006 (that's one year sooner) for a state telecommunications service tax enacted by state law on or after October 1, 1991, and applied to Internet access through administrative code or regulation issued on or after December 1, 2002.
- Clarifies that nothing in this legislation would prohibit Texas or a political subdivision thereof from imposing or collecting the Texas municipal access line fee.

Committee Action: The Senate-passed resolution was not referred to any House committee.

Cost to Taxpayers: The resolution would not affect the federal budget.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: It would adjust the state-and-local mandate already extended in S. 150.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

RSC Staff Contact: Paul S. Teller, paul.teller@mail.house.gov, (202) 226-9718

H.Res. 853 — Recognizing the Boy Scouts of America for the public service the organization performs for neighborhoods and communities across the United States (Issa)

Order of Business: The resolution is scheduled to be considered on Friday, November 19th, under a motion to suspend the rules and pass the bill. Under House rules legislation may only be considered under suspension of the rules on Mondays, Tuesdays, and Wednesdays. Under a special rule, H.Res. 859, scheduled for consideration today, the House will consider suspensions today.

Summary: H.Res. 853 states that it is resolved that the House of Representatives:

“recognizes the Boy Scouts of America for the public service the organization performs for neighborhoods and communities across the United States; and

“commends the Boy Scouts of America for the Good Turn for America program and the work the organization has accomplished while partnering with the Salvation Army, Habitat for Humanity International, the American Red Cross, and thousands of other community and civic organizations across the United States to address critical issues facing communities in the United States.”

Additional Background: According to the resolution, the Boy Scouts of America (BSA) “is one of the leading volunteer youth movements in the United States, serving more than 4,700,000 young people with the support of 1,200,000 volunteer adult leaders.” The BSA was incorporated on February 8, 1910, and recognized by Federal charter on June 15, 1916. During the 95-year history of the BSA, the organization has partnered with the Salvation Army, Habitat for Humanity International, the American Red Cross, and thousands of other community and civic organizations to address critical issues facing communities in the United States. The BSA Oath reads:

On my honor I will do my best, To do my duty to God and my country, and to obey the Scout Law; To help other people at all times; To keep myself physically strong, mentally awake, and morally straight.

Committee Action: The resolution was introduced on November 16, 2004, and referred to the Committee on the Judiciary, which did not consider it.

Cost to Taxpayers: The resolution would authorize no expenditure.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

RSC Staff Contact: Sheila Cole, sheila.cole@mail.house.gov, (202) 226-9719

H.R. 5365 — To treat certain arrangements maintained by the YMCA Retirement Fund as church plans for the purposes of certain provisions of the Internal Revenue Code of 1986 (English)

Order of Business: The bill is scheduled to be considered on Friday, November 19th, under a motion to suspend the rules and pass the bill. Under House rules legislation may only be considered under suspension of the rules on Mondays, Tuesdays, and Wednesdays. Under a special rule, H.Res. 859, scheduled for consideration today, the House will consider suspensions today.

Summary: H.R. 5365, retroactively to December 31, 2003, revises the IRS Code to clarify that the YMCA Retirement Fund be treated as a “church plan” under the IRS Code of 1986. It also requires that the YMCA pension plan comply with all the tax rules that otherwise apply to taxability of beneficiaries under annuities purchased by church plans and clarifies that the Fund is a church plan for the purposes of a self-funded death benefit plan. The YMCA Retirement Fund is defined in the bill as “the Young Men’s Christian Association Retirement Fund, a corporation created by an Act of the State of New York which became law on April 30, 1921.”

Additional Information: According to the sponsor, the YMCA Retirement Fund has historically been treated as a church plan, therefore allowing its pension plan for more than 88,000 retirees to be shielded from federal taxes. Recently, the IRS called the Fund's status as a church plan into question, and thus put into question the pension plans of YMCA employees and retirees across the country. The sponsor reports that the Fund is a church plan because the YMCA is an organization founded "to unite Christians and strengthen Christian beliefs ...[that] shares common religious bonds with Christian churches." The IRS Code provides that an "employee" of a church includes employees of other organizations that are controlled by or *associated with* a church. "Associated" with is further defined as an organization that shares common religious bonds and convictions with that church. The common religious bonds and convictions between the YMCA and Christian churches, according to the bill's sponsor, "are clearly sufficient to meet the 'associated with a church' requirements of the Code" and thus its employees meet the definition of employees of a church and the pension plan that is maintained is a church plan pursuant to the Code.

Committee Action: The bill was introduced on November 16, 2004, and referred to the Committees on Ways and Means and Education and the Workforce, neither of which considered the bill.

Cost to Taxpayers: According to the Joint Tax Committee, "the bill would have a negligible effect on Federal fiscal year budget receipts."

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No.

Constitutional Authority: A committee report citing constitutional authority is unavailable.

RSC Staff Contact: Sheila Cole, sheila.cole@mail.house.gov, (202) 226-9719

###

This document was created with Win2PDF available at <http://www.daneprairie.com>.
The unregistered version of Win2PDF is for evaluation or non-commercial use only.